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09/830,096	11/06/2002	Eric Colin	60,130-1064	2869
26096	7590	09/08/2004	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			VAN PELT, BRADLEY J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/830,096

SEP 08 2004

Filing Date: November 06, 2002

Appellant(s): COLIN, ERIC

GROUP 3600

John M. Siragusa
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 17, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is deficient because the applicant's description includes a discussion of drawings that were not entered specifically amended figure 3.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 4, 7, and 8 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,009,296 Ohkawa et al. 4-1991

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 7, 8, and 16-18 are rejected under 35 U.S.C. 102(b). Claims 9-15 are rejected under 35 U.S.C. 112, first paragraph. This rejection is set forth in a prior Office Action, mailed on December 12, 2003.

(11) *Response to Argument*

A. Claims 9-15 are not enabling under 35 U.S.C 112, first paragraph.

Under 35 U.S.C. 112, first paragraph the applicant must describe claimed subject matter in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 9 requires “a housing.” In the originally filed application the applicant did not illustrate the housing. Although the applicant in the original specifications describes the housing, one skilled in the art could not make use of the invention because the shape of the housing is not described.

For instance the housing may have to conform to a certain shape in order for the door lock to function properly. The amended figure 3 illustrates further detail in that it discloses the shape of the housing. The originally filed specification does not discuss the actual shape of the housing. Therefore, the exact structure of the housing is unknown.

B. Claims 1, 2, 3, and 16 are not patentable under 35 U.S.C. 102(b) over Ohkawa et al.

Claim 1 includes the limitation “a pinion directly fixed to the drive shaft to always rotate in unison with the drive shaft.” The applicant states “the pinion gear (151) is not directly fixed to the output shaft (141) and does not always rotate in unison with the output shaft,” because the “Ohkawa et al. pinion (151) is driven by an electromechanical clutch (150) through a contact that is typical of a clutch for engaging a driven member (Ohkawa et al. Col. 4, lines 18-20).”

However, the claim does not require the pinion to be always directly fixed to the drive shaft. Since this is a functional limitation, Ohkawa et al. needs to be capable of performing the function. When the pinion (151) is connected to the output shaft (141) by the electromagnetic clutch, the pinion will always rotate in unison with the output shaft (see column 4, lines 20-25). Thus, Ohkawa et al. anticipates this limitation.

C. Claim 4 is not patentable under 35 U.S.C. 102(b) over Ohkawa et al.

Claim 4 sets forth the gear rack includes at least one stop to limit movement of the rack relative to the body portion. The applicant argues that the straight sides (117) of Ohkawa et al. do not act as “stops.” The dictionary definition of stop is “something that impedes, obstructs, or brings to a halt.” The side 117 will impede, bring to a halt, or obstruct the motor’s (140) movement such as when the device malfunctions.

D. Claim 7 is not patentable under 35 U.S.C. 102(b) over Ohkawa et al.

Claim 7 requires that the drive shaft pass between the array of gear teeth and a guide portion proximate to the gear teeth. The applicant argues that neither plate (112, 113) of Ohkawa et al. contacts nor guides the motor (140) or the output shaft (141). The dictionary definition of guide is “a device for steadyng or directing the motion of something.” The plates (112, 113)

guide the device because it supports the teeth (115), shaft (141), and motor (141) and will thus steady or direct all of these elements.

Furthermore, the applicant sets forth on pp. 3 line 21-22, “[g]uide portion 30 includes a guide surface 32 along which the drive shaft 16 passes in *close proximity* [emphasis added] or alternatively in light engagement therewith.” Therefore, Ohkawa’s drive shaft (141) does not need to contact the guide portion (112, 113) in order to meet the above limitation. Thus, Ohkawa discloses a guide portion.

E. Claim 8 is not patentable under 35 U.S.C. 102(b) over Ohkawa et al.

Claim 8 requires the guide portion to be supported by the stop. Since the guide portion (112, 113) is set on the stop (117), Ohkawa discloses this limitation.

F. Claims 17-18 are not patentable under 35 U.S.C. 102(b) over Ohkawa et al.

See heading B.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BJVP 
September 7, 2004


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